

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

ABIGALE PFINGSTEN, on behalf herself
and all others similarly situated,

Plaintiff,

V.

CARNEGIE MELLON UNIVERSITY,

Defendant.

Case No.: 2:20-CV-00716

HONORABLE CATHY BISSOON

ANOKHY DESAI, individually and on
behalf of all others similarly situated,

Plaintiff,

V.

CARNEGIE MELLON UNIVERSITY,

Defendant.

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SUPPLEMENTAL BRIEFS REGARDING DEFENDANT'S MOTION TO DISMISS**

In the time since the parties completed briefing Defendant's motion to dismiss, two decisions have been issued in similar cases pending in the Eastern District of Pennsylvania: *Smith v. University of Pennsylvania*, Case No. 20-2086 (E.D. Pa. April 20, 2021), and *Ryan v. Temple University*, Case No. 5:20-cv-02164 (E.D. Pa. April 22, 2021), and one decision has been issued in another case pending in this District: *Hickey v. University of Pittsburgh*, 2:20-cv-690 (W.D. Pa. April 27, 2021).

The claims and defenses resolved in these decisions share general similarities with those at issue in Defendant's motion to dismiss. Specifically, these three opinions appear to be the first

from federal courts in Pennsylvania addressing whether student plaintiffs stated claims for breach of contract or unjust enrichment under Pennsylvania law against universities that switched to remote instruction during the Covid-19 pandemic. Plaintiffs believe these decisions contain contradictions and raise significant issues of Pennsylvania contract law in the educational context that the parties have not fully addressed in their previous briefing, warranting deeper discussion from the parties than would typically be permissible in notices of supplemental authority.

Plaintiffs therefore request that the Court permit the parties to submit supplemental briefs of up to ten pages to address the *Smith*, *Ryan*, and *Hickey* opinions and any other significant opinions issued since the parties' motion to dismiss briefing concluded. Plaintiffs propose that if the Court grants this motion, the parties' supplemental briefs should be due on the same day, within 14 days of the Court's order. Plaintiffs' counsel sought consent from Defendant's counsel prior to filing this motion, and Defendant does not consent.

WHEREFORE, Plaintiffs respectfully request this Court grant the parties leave to file supplemental briefs of up to ten pages regarding Defendant's Motion to Dismiss.

Date: April 28, 2021

Respectfully submitted,

/s/ Gary F. Lynch

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